

MICHIGAN



"PROTECTING THE RIGHTS OF
PERSONS WITH DISABILITIES"

Elmer L. Cerano, *Executive Director*

**PROTECTION & ADVOCACY
SERVICE, INC.**

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President
Flint

October 7, 2008

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1st Vice President
Highland

Victor Zambardi
Oakland University General Counsel
203 Wilson Hall
Rochester, MI 48309

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Grand Rapids

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RE: Housing for Micah Fialka-Feldman

Mark Lezotte
Treasurer
Detroit

Dear Mr. Zambardi:

Pamela Bellamy, Ph.D
Immediate Past President
Lansing

I am an attorney with Michigan Protection and Advocacy Service, Inc. (MPAS), the organization designated by the governor of Michigan to enforce the federal protection and advocacy laws. MPAS is a non-profit organization dedicated to protecting the rights of persons with disabilities through advocacy, education and legal representation.

Sheila Faunce
Director Emeritus
East Lansing

Robert W. Ryan
Director Emeritus
Lansing

I am writing you on behalf of my client, Micah Fialka-Feldman who was recently denied housing in Oakland University's on-campus residence hall. In her letter of May 23, 2008, Mary Beth Snyder denied Mr. Fialka-Feldman's request for housing because he did not meet the admissions requirements due to the fact he is not enrolled in coursework leading to a degree.

Frederick A. Swegles
Director Emeritus
Port Huron

Mark Brewer, Esq.
Mt. Clemens

On its face, this seems like a neutral rule to limit those students eligible for the limited amount of available housing units on campus. However, application of this rule has a disparate impact on students with cognitive impairments enrolled in the OPTIONS program. As such, it may violate state and federal laws, specifically: American with Disabilities Act, Fair Housing Act, Section 504 of the Rehabilitation Act and Michigan's Persons with Disabilities Civil Rights Act.

Donna DePalma
Pinckney

Michelle Huerta
Livonia

Ann E. Manning
Clarkston

Susan L. Odgers, Ph.D., ABD
Traverse City

Limiting on-campus housing to only students enrolled in coursework leading to a degree excludes students in the OPTIONS program and is not merited due to the

Stoney Polman
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fact that the program has numerous requirements that students must meet to be eligible for enrollment in the program. Making on- campus housing available to Mr. Fialka-Feldman and other eligible students in the OPTIONS program is not the same as opening housing up to everyone enrolled at Oakland University.

The OPTIONS program requires the following for admission:

- Students must take 12 credits per semester;
- Credits are billed at the regular OU rate for undergraduate students;
- Been successful in inclusive classrooms throughout his or her public school career;
- Completed high school with either a degree or certificate of completion;
- Wants to continue taking academic classes for personal enrichment;
- Have demonstrated strength in one or more academic areas;
- Can get around campus independently and some ability to follow a schedule;
- Have a disability that prevents regular admission to college or university;
- Have an interest in participating in social activities on campus;
- A recommendation from a school transitions planning team or support coordinator;
- Have an exit IEP or Person Center Plan; and
- Complete an in-person interview.

Given the numerous requirements students must meet to be eligible for the OPTIONS program, excluding them from on-campus housing is without merit.

Furthermore, it's our understanding that students in the English as a Second Language Program, which is also a Continuing Education program, are eligible for student housing if it is available. On the application for the ESL program, a question asks applicants if they are interested in student housing if it is available. Students in the OPTIONS program however are not provided with this option.

Finally, if Oakland University should decide to continue this policy, then please consider this a request on behalf of Micah Fialka-Feldman for a reasonable accommodation pursuant to the state and federal laws mentioned above.

Specifically, we are requesting that you waive this restriction for on-campus housing and allow Mr. Fialka- Feldman to live on-campus the same as other students. Mr. Fialka-Feldman, due to a cognitive impairment, is not able to enroll in a program or coursework leading toward a degree. Therefore, he requests that you waive or modify this housing requirement which he can not meet due to his disability.

Mr. Victor Zambardi Page 3 10/07/08

Should you deny this request for a reasonable accommodation, please tell us why granting the request would create an undue burden on Oakland University. Please let us know your decision by November 10, 2008.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris E. Davis". The signature is fluid and cursive, with the first name "Chris" being more prominent and the last name "Davis" following in a similar style.

Chris E. Davis

Attorney

CED/cr

Cc: Micah Fialka-Feldman